

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4179 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
1 to 5 No
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RUP PHARMA

Versus

HANSABEN M MEHTA

Appearance:

MR PS CHARI for Petitioner
None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/12/97

ORAL JUDGEMENT

1. Shri Chari, learned counsel appearing for the petitioner produced on record of this Special Civil Application a Letter dated 1st January, 1994 sent to the Factory Inspector by the petitioner. This letter is a notice of closure of the establishment, but he failed to satisfy this Court how the closure of the establishment has any relevance to the merits of the matter. This document is ordered to be taken on record of the Special

Civil Application.

2. The petitioner in this Special Civil Application challenges the award of the Labour Court, Navsari, dated 10.10.1984, passed in Reference (LCA) No.12 of 1983, under which, the dismissal of the respondent workman from services was held to be illegal and the order has been passed for reinstatement of the respondent - workman on the original post with full back wages with further direction to pay interest at the rate of 6 per cent per annum and the cost.

3. The learned counsel for the petitioner contended that even if it is taken to be a case of dismissal of the respondent workman from the services by the petitioner by way of penalty without holding any inquiry, still it was obligatory on the part of the Labour Court to afford the opportunity to the petitioner to prove the misconduct against the respondent workman. It has next been contended that it is a case of simpliciter termination of services of the respondent after following the provisions of Section 25-F of the Industrial Disputes Act, 1947 and the Labour Court has committed serious error of jurisdiction to interfere with the action of the petitioner. Lastly, the counsel for the petitioner contended that in any eventuality, the Award of the Labour Court awarding the back wages and interest thereon and the costs is arbitrary and unjustified.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioner. On being asked, the learned counsel for the petitioner failed to satisfy the court that the termination of the services of the respondent workman was not due to the reason that she was not performing her duties to the satisfaction of the management. In the presence of this fact, certainly, it is a case, where the services of the respondent workman were dispensed with by way of penalty.

5. From reading of the Award of the Labour Court, I find that the evidence has been recorded of both, the workman and the employer, and after discussion of the evidence, the Labour Court has reached to a conclusion that the respondent workman ought not to have been dismissed from service for a small lapse or mistake. First contention made by the learned counsel for the petitioner is contrary to what the procedure has been followed by the Labour Court in the present case. The Labour Court found that the dismissal of the workman was for no fault of her and that too without giving

opportunity of defence and it was taken to be a case where the order of dismissal was passed arbitrarily. In the facts of the present case, it is not correct to contend by the learned counsel for the petitioner that it was a case of simpliciter termination. It is a case where the services of the respondent workman were terminated for the alleged misconduct and the Labour Court has not committed any mistake in holding that for a minor mistake order of dismissal of the respondent workman from services could not have been passed. I do not find any illegality much less any error apparent on the face of the award of the Labour Court which calls for interference of this Court under Article 226 or 227 of the Constitution. The Labour Court has passed a just, fair and reasonable award to which no exception can be made later.

4. In the result, this Special Civil Application fails, the same is dismissed. Rule is discharged. Interim relief, if any, granted earlier shall stand vacated. No order as to costs.

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